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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

LOUIE LOPEZ,

Defendant and Appellant.

B270610

(Los Angeles County
Super. Ct. No. PAO083105)

APPEAL from a judgment of the Superior Court of Los Angeles County, David W. Stuart, Judge. Affirmed.

Ava R. Stralla, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

The jury returned a verdict of not guilty to a charge of second degree murder (Pen. Code, § 187),¹ instead finding defendant and appellant Louis Lopez guilty of the lesser included offense of involuntary manslaughter (§ 192, subd. (b)) with personal use of a firearm (§ 12022.5, subd. (a)). The jury also convicted defendant of two counts of unlawful possession of a firearm (§ 29805). Defendant was sentenced to a total of 14 years 8 months in state prison, comprised of consecutive terms of four years for involuntary manslaughter, ten years for personal use of a firearm, and eight months for one of the convictions of unlawful possession of a firearm.²

Defendant filed a timely notice of appeal from the judgment. Counsel was appointed to represent defendant on appeal. On July 21, 2016, appointed counsel filed a brief raising no issues, but requesting this court to independently review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436. Defendant was advised by letter of his right to file a supplemental brief within 30 days. Defendant has not responded with a supplemental brief, and the time for filing has passed.

We have completed our independent review of the record, and find no arguable appellate issues. The involuntary manslaughter verdict is well-supported by substantial evidence—defendant fatally shot the 16 year-old victim in the head. Defendant provided a series of evolving explanations for the shooting, ranging from suggesting someone else had shot the victim, he and the victim struggled over the gun causing it to discharge, he did not believe the gun was loaded because the clip had been removed, and he fired the gun by accident. Although defense counsel argued for acquittal based on accident, the better argument tendered was that the offense was involuntary manslaughter. In short, defendant received a favorable verdict in a case which easily could have been a second degree murder. The jury was fully instructed on the law. The sentence imposed was

¹ Statutory references are to the Penal Code.

² Sentence was imposed and stayed pursuant to section 654 on the second charge of unlawful possession of a firearm.

within the range of the trial court's discretion, and the court relied upon relevant considerations in selecting the component terms of the sentence.

The judgment is affirmed. (*Smith v. Robbins* (2000) 528 U.S. 259.)

KRIEGLER, Acting P.J.

We concur:

BAKER, J.

KUMAR, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.